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**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

In re

Jeffrey S. Beier,

Debtor.

Case No. 8:23-bk-10898-TA

**Chapter 7**

**NOTICE OF MOTION TO RECONSIDER  
ORDER OVERRULING DEBTOR'S  
OBJECTION TO PROOF OF CLAIM 2-1  
FILED BY THE BANK OF NEW YORK  
MELLON, FKA THE BANK OF NEW  
YORK SUCCESSOR TRUSTEE TO  
JPMORGAN CHASE BANK, N.A., AS  
TRUSTEE FOR THE BEAR STEARNS  
ALT-A TRUST, MORTGAGE  
PASS-THROUGH CERTIFICATES,  
SERIES 2005-04 [DOCKET NUMBER 134]**

**Hearing Date**

Date: March 5, 2024

Time: 11:00 a.m.

Place: Courtroom 5B

411 West Fourth Street

Santa Ana, CA 92701-4593

**TO THE HONORABLE C. THEODORE ALBERT, UNITED STATES BANKRUPTCY JUDGE;  
CLAIMANT, THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK  
SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE  
BEAR STEARNS ALT-A TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES  
2005-04 AND THEIR ATTORNEYS OF RECORD; AND OTHER INTERESTED PARTIES  
AND THEIR ATTORNEYS OF RECORD:**

1       **PLEASE TAKE NOTICE** that Jeffrey S. Beier, Debtor herein (“Debtor”), filed a Motion to  
2 Reconsider Order Overruling Debtor’s Objection to Proof of Claim 2-1 Filed by The Bank of New York  
3 Mellon, FKA the Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for  
4 the Bear Stearns Alt-A Trust, Mortgage Pass-through Certificates, Series 2005-04 [Docket Number 134]  
5 (the "Motion") on February 7, 2024. The hearing on the Motion will take place on March 5, 2024 at  
6 11:00 a.m. The hearing on the Motion will occur in Courtroom 5B of the Ronald Reagan Federal  
7 Building and Courthouse, located at 411 West Fourth Street, Santa Ana, CA 92701-4593.

8       **PLEASE TAKE FURTHER NOTICE** that this Motion is being heard on regular notice  
9 pursuant to Local Bankruptcy Rule ("LBR") 9013-1(d). If you wish to oppose this Motion, you must  
10 file a written response to this Motion with the Court and serve a copy of it upon Movant's attorneys at  
11 the address set forth above no less than fourteen (14) days prior to the above hearing date (no later than  
12 February 20, 2024).

13       This Motion will be based on this Notice of Motion, the Motion, the Memorandum of Points and  
14 Authorities, the separately-filed Request for Judicial Notice, and all papers, pleadings, and records on  
15 file in this separate proceeding. Failure to timely file and serve a written response may be deemed by  
16 the Court to be consent to the requests in Movant's Motion.

17                                   **NOTICE OF RELIEF SOUGHT**

18       By the Motion, Debtor seeks reconsideration of the Court’s Order Overruling Debtor's Objection  
19 to Proof of Claim 2-1 Filed by the Bank of New York Mellon, fka the Bank of New York Successor  
20 Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns Alt-A Trust, Mortgage  
21 Pass-through Certificates, Series 2005-04 [Docket Number 134] (the "Claim Objection Order") pursuant  
22 to Federal Rule of Civil Procedure 59(e) and Federal Rule of Bankruptcy Procedure 9023.<sup>1</sup> At the  
23 hearing Debtor’s Objection to Proof of Claim 2-1, held on January 9, 2024 (the “Hearing”), the Court  
24 indicated that it was finding that The Bank of New York Mellon, fka the Bank of New York Successor  
25 Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns Alt-A Trust, Mortgage  
26 Pass-through Certificates, Series 2005-04 (the “Claimant”), was the holder of the Promissary Note and

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27  
28       <sup>1</sup> All defined terms in the Notice have the same meaning as set forth in the Memorandum  
of Points and Authorities attached to the Motion unless otherwise defined herein.

1 Deed of Trust based on the documents submitted by Claimant and because no other person had come  
2 forward to claim ownership of the Promissory Note and Deed of Trust. Since the Hearing, Debtor has  
3 discovered evidence that Wells Fargo Bank, N.A. has come forward in this Court as the owner of the  
4 Promissory Note and Deed of Trust. Therefore, the Court based its ruling on an error of fact. In addition,  
5 because there are clear missing links in the chain of title, such that neither the Court nor Claimant can  
6 say without any uncertainty that Claimant is the owner of the Promissory Note and Deed of Trust,  
7 reconsideration is necessary to prevent a manifest injustice.

8 Therefore, for the reasons set forth hereinabove and in the Motion, Debtor respectfully requests  
9 this Court grant the Motion and any other such relief as is just and proper.

10 Respectfully Submitted,

11 HABERBUSH, LLP

12  
13 Dated: February 7, 2024

By: /s/ Lane K. Bogard  
Lane K. Bogard, ESQ., Attorneys for Debtor.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
444 West Ocean Boulevard, Suite 1400, Long Beach, CA 90802

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION TO RECONSIDER ORDER OVERRULING DEBTOR'S OBJECTION TO PROOF OF CLAIM 2-1 FILED BY THE BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE BEAR STEARNS ALT-A TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-04 [DOCKET NUMBER 134]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 7, 2024**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Anerio V Altman** LakeForestBankruptcy@jubileebk.net, lakeforestpacer@gmail.com;ecf@casedriver.com
- **Lane K Bogard** lbogard@lbinsolvency.com, dhaberbush@lbinsolvency.com,ahaberbush@lbinsolvency.com,abostic@lbinsolvency.com,haberbush.assistant@gmail.com, vhaberbush@lbinsolvency.com,jborin@lbinsolvency.com
- **Greg P Campbell** chl1ecf@aldridgepite.com, gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com
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- **Nathan F Smith** nathan@mclaw.org, CACD\_ECF@mclaw.org;mcecfnotices@ecf.courtdrive.com;valenzuela@mclaw.org
- **United States Trustee (SA)** ustpregion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On **February 7, 2024**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **February 7, 2024**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Theodor C. Albert, JUDGE  
United States Bankruptcy Court  
411 West Fourth Street,  
Suite 5085 / Courtroom 5B  
Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 7, 2024

Alexander S. Bostic

Date

Printed Name

Signature

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